Subject to these provisions the trial of an European British subject is entirely under the Criminal Procedure Code. (*See* section 463.)

Europeans or Americans not being British subjects, are triable before the ordinary Courts. When the trial is by jury or with the aid of assessors, the accused may require to have half of them Europeans or Americans (if this is practicable). (Section 460.)

Section XI.—Miscellaneous Proceedings.

It was prescribed in former Codes that all miscellaneous proceedings, not being trials such as I have described, are to be held with procedure as nearly resembling that on a trial as possible. This is still true but it was not thought necessary to repeat it in the new Code.

In forest cases, the proceedings on an application to confiscate (Forest Act, sections 53-6) are of this nature.

Ordinarily, the result of the forest officer's seizure and report to the Magistrate is to produce an offender, and then there is a regular trial, and the Magistrate makes an order for the disposal of the property seized at the close of the trial. But there are many cases where timber which has been cut unlawfully has been found in the forest, and it is uncertain who actually cut it: or it may bear the mark of some company or contractor, who may have had nothing to do with the actual felling and cannot be charged criminally. Here then the forest officer will seize it, and institute the proceeding under section 56 of the Forest Act, in order to recover the property.

The student should refer to the account given regarding confiscation cases at page 346, *ante*.

Here the general procedure will be followed, as regards summons to parties and witness, recording a memo. of the substance of evidence (as in a summons case) and recording a judgment explaining the order passed and the reasons for it.

PART IV.

THE FOREST SERVICE.

CHAPTER XIX.

THE LEGAL ORGANIZATION OF THE FOREST SERVICE.

In the beginning of this book I described the reasons which led to the enactment of a special forest law. One of these reasons was the necessity for organizing a special *Forest Service*—a staff of officers who should not only be entrusted with the professional duty of managing and working the estates, but who should also be invested with certain legal powers for the protection of the forests, the prevention of offences, and the arrest of offenders.

In order to do this it is necessary that the law should recognize the legal existence of "Forest Officers" as such, and declare them to be "public servants," that they may be under a certain definite responsibility to the State while they are entrusted with certain powers on its behalf.

Consequently, in Chapter XII of the Indian Forest Act (Chapter X, Burma Act), all forest officers are declared to be "public servants" within the meaning of the Indian Penal Code, and they are thus subject to all the general provisions of the Code, imposing duties and liabilities on and extending a certain protection to public servants, of which I shall speak presently. The Forest Act also threatens them with special penalties in certain cases, and places them under certain restraints as regards their engaging in trade or other occupations likely to interfere with their public duty.

On the other hand, the law protects them from civil action, requires special sanction to their criminal prosecution, and arms them with powers so that they may be able to act efficiently in the discharge of their functions.

It will be convenient to consider the subject of this chapter under the following heads:—

Section I.—The general nature of public service;